

Summary of Proposed Local Rule 4.6

The proposed amendments to the court's local rule are summarized below. Immediately following the summary, you will find the full text of the proposed changes with deletions noted in ~~striketrough~~ and proposed additions noted in underline.

❑ RULE 4.6 JURY TRIALS

- The proposed amendments change the title from “Jury Trials to “**STANDING PRE-TRIAL ORDERS**”
- The proposed amendments relocate and revise the substance of existing Rule 4.4H to revised Rule 4.6;
- The proposed amendments clarify and expand case types; detail the discretion of the trial judge and the case management judge to exempt or modify standing orders; clarify the discretion of the trial judge to impose consequences in the event of non-compliance; and delete obsolete and redundant provisions of existing Rule 4.4H and related rules.

DIVISION II: CIVIL CASES

CHAPTER 4 – GENERAL POLICIES AND PROCEDURES

RULE 4.6 ~~JURY TRIALS~~ STANDING PRE-TRIAL ORDERS FOR CIVIL CASES

1. Deposits:

In any civil case in which a jury trial is demanded, the jury fees shall be deposited with the ~~Clerk~~ clerk in strict compliance with Code of Civil Procedure section 631 et seq. The party demanding the jury shall deposit with the ~~Clerk~~ clerk, the jury fee amount established and published in the Superior Court of California, County of Alameda Fee Schedule. The party requesting a jury shall be responsible for advancing the costs of meals required by a jury during its deliberations.

2. ~~In Limine Motions~~ Case Application:

~~In limine motions directed to the trial judge in all cases on which a decision is sought at or before the commencement of presentation of evidence to the trier of fact, shall be filed in writing, supported by points and authorities. The Court shall not charge a fee for filing motions in limine. Unless modified by the case management judge, or other judge to whom the case is assigned, at the time of trial setting, the following standing orders shall apply to:~~

A. All unlimited and limited general civil jury trials;

B. With the exception of provisions for jury instructions and verdict forms, to all unlimited and limited general civil court trials.

3. ~~Jury Instructions~~ Exhibits: (former Rule 4.4H.(2))

~~Proposed jury instructions shall be prepared and submitted by counsel in compliance with applicable statutes, rules and orders of the Court. Counsel shall refer to the specific page or pages containing the language relied upon in cases cited as authority for any proposed instruction.~~ Each counsel, and any self-represented party, shall prepare an index of all exhibits to be offered at trial, other than those to be used for impeachment or rebuttal, for submission ~~in triplicate~~ (with one extra copy) to the trial judge at the first appearance in the trial department. The index shall ~~include~~ identify as separate exhibits each discrete document or item to be offered at trial and the index shall include a brief description of ~~the each~~ exhibit sufficient to distinguish it from the other exhibits. These indices and copies of the exhibits shall be exchanged by counsel, and any self-represented party, at least three ~~(3)~~ court days before trial. The parties shall meet and confer to eliminate duplicate exhibits and stipulate whenever possible to authenticity and admissibility. Failure to disclose or exchange a copy of any exhibit may result in its exclusion at trial. All Formal objections to an exhibits shall be in the form of a Motion in Limine pursuant to paragraph (56). Failure to file and serve a Motion in Limine objecting to an exhibit may waive all objections to that exhibit at trial.

4. Depositions and Discovery Responses: (former Rule 4.4H.(3))

Originals of all depositions to be used at trial shall be lodged with the courtroom clerk at the first appearance in the trial department. Counsel, and any self-represented party, shall meet and confer to edit depositions as necessary and make a good faith effort to resolve admissibility issues related to depositions.

If depositions, requests for admissions, interrogatory responses, or any other discovery response, are to be used in lieu of live testimony at trial, the proponent shall submit the excerpts to be used to opposing counsel, or any self-represented party, at least three ~~(3)~~ court days before trial. Legal grounds for objections to such excerpts shall be raised by Motion in Limine pursuant

to paragraph ~~(56) of this rule~~. Counsel and any self-represented party, are also ordered to comply with the provisions of CCP Code of Civil Procedure Section 2025.340(m)~~(1) and (u)~~ with respect to the anticipated use of audio or videotaped depositions.

5. Transcripts: (former Rule 4.4H.(4))

The proponent shall prepare written transcripts of any video or audio presentations intended to be used at trial pursuant to CRC California Rules of Court, Rule 203.5, which shall be submitted to opposing counsel, or any self-represented party, at least three ~~(3)~~ court days before trial. Objections to said audio or video presentation and/or transcripts shall be raised in a Motion in Limine pursuant to paragraph ~~(56) of this Rule~~.

6. Motions in Limine: (former Rule 4.4H.(5))

~~All~~ Motions in Limine shall be in writing and personally served upon opposing counsel or any self-represented party one ~~(1)~~ court day before trial, and filed with the courtroom clerk at the first appearance in the trial department.

In the discretion of the trial judge, Motions in Limine not served in compliance with this Rule ~~may~~ might not be heard.

7. Witnesses: (former Rule 4.4H.(6))

A list of all witnesses (expert and non-expert) to be called at trial, other than those to be called solely for impeachment or in rebuttal, shall be personally served upon opposing counsel, or any self-represented party, three ~~(3)~~ court days before trial and presented in triplicate to the trial judge at the first appearance in the trial department.

~~Trial will not be delayed to accommodate witness scheduling problems. In the absence of extraordinary circumstances, a party will be deemed to have concluded the presentation of his/her case once the examination of available witnesses is concluded.~~

Witnesses not listed are subject to exclusion at trial.

In the discretion of the trial judge, the court may decline to delay or continue the trial to accommodate witness scheduling problems and a party may be deemed to have concluded the presentation of his/her case once the examination of available witnesses is concluded.

8. Redaction of Exhibits: (former Rule 4.4H.(7))

If medical, personal, or consumer records are involved, the parties are to delete any information ~~which that~~ counsel, or any self-represented party, agree should not come into evidence, including insurance information, so that such information is not received by the jury. The proponent shall then prepare clean copies of the records for submission into evidence. Any disagreements or legal grounds for objection to said records shall be set forth in a Motion in Limine filed pursuant to paragraph ~~(56) of this Rule~~.

9. Statement of the Case: (former Rule 4.4H.(8))

Each counsel, and any self-represented party, shall, ~~prepare in advance of the day of trial, meet and confer for the purpose of agreeing upon~~ a brief non-argumentative summary of the factual nature of the case and a brief statement regarding alleged injuries and/or damages for submission to the trial judge at the first appearance in the trial department. The purpose of the summary is to provide an overview of the case for the jury. ~~Each counsel and any self-represented party shall also prepare a proposed form of jury instruction regarding the burden(s) of proof involved in the case. Copies of the summary and each party's proposed form of instruction shall be personally served upon opposing counsel, or any self-represented party, three (3) court days before trial and presented in triplicate to the trial judge at the first appearance in the trial department.~~

10. Jury Instructions: (former Rule 4.4H.(9))

Each counsel, and any self-represented party, shall personally serve upon opposing counsel, or any self-represented party, three ~~(3)~~ court days before trial and submit a set of proposed jury instructions to the trial judge at the first appearance in the trial department. The submission of a list of jury instructions, without the proposed instructions, is NOT acceptable. The full text of the proposed instructions must be provided including proposed language to complete any blank portions of such instructions and proposed formatting to include or exclude bracketed language in such instructions. Any proposed instruction which is not taken verbatim from jury instructions approved by the Judicial Council of California shall include citations to the authorities upon which it is based.

11. Verdict Forms: (former Rule 4.4H.(10))

~~If the use of a special verdict form is anticipated,~~ At least three court days before trial, each counsel, and any self-represented party, shall ~~prepare~~ meet and confer for the purpose of agreeing upon a the form of verdict or special verdict, ~~personally serve it upon opposing counsel, or any self-represented party, three (3) court days before trial~~ and submit ~~it~~ the agreed upon or proposed verdict form, if no agreement has been reached, to the trial judge at the first appearance in the trial department.

12. Jury Selection: (former Rule 4.4H.(11))

Examination of prospective jurors shall be conducted pursuant to Code of Civil Procedure Section 222.5, California Rules of Court, Appendix, Division 1, Standards of Judicial Administration, Section 8, and California Rules of Court, Rule 228. Supplemental voir dire questions and any proposed written juror questionnaire should be personally served upon opposing counsel or any self-represented party, three ~~(3)~~ court days before trial and submitted to the trial judge at the first appearance in the trial department.

13. Glossary: (former Rule 4.4H.(12))

If ~~this~~ the case involves technical or unusual vocabulary, a special glossary, in duplicate, shall be submitted to the courtroom clerk at the first appearance in the trial department.

14. Electronic Copies:

If ordered by the case management judge or trial judge, counsel shall submit to the court and all other parties, electronic copies of proposed juror questionnaires, jury instructions, and verdict forms in addition to printed versions required by this rule. Electronic copies shall be in Microsoft Word compatible format.

15. Consequences of Noncompliance With Standing Pre-Trial Orders:

In the discretion of the trial judge, the consequences of noncompliance with an order made under this rule may include imposition of any sanction or order authorized by law including, without limitation, restricting evidence, continuing the trial, sending the case back for further case management, reopening discovery, excluding an exhibit, precluding the testimony of a witness, striking an instruction, or imposing sanctions under the provisions of California Rules of Court, Rule 227(b) and Code of Civil Procedure section 177.5.

*(Effective 5/19/98; Amended 7/1/99, 7/1/99, and 1/1/01; Renumbered from Rule 4.8, 7/1/02;
Amended to relocate and revise former Rule 4.4H to revised Rule 4.6, 1/1/06)*